

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

EUGENE P. PATTERSON

§

VS.

§

CIVIL ACTION NO. 1:05cv521

YOLANDA LEFLORE

§

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Eugene P. Patterson, an inmate at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this lawsuit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends granting the defendant's motion to dismiss for want of prosecution and dismissing this action without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

Further, and in the alternative, plaintiff's complaint fails to state a claim upon which relief may be granted. Plaintiff may not sue either individual defendants or the Bureau of Prisons under the Americans with Disabilities Act. *See Marlin v. Alexandre*, 254 Fed. Appx. 374, 375 (5th Cir. 2007). Additionally, *Bivens* has not been extended to claims of discrimination in UNICOR prison job assignments. "The Supreme Court has recently reiterated that expanding the *Bivens* cause of

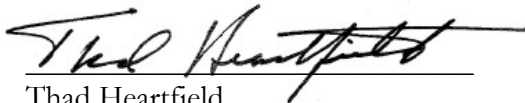
action has ‘become a disfavored judicial activity.’” *Watkins v. Three Admin. Remedy Coordinators of Bureau of Prisons*, No. 19-40869, \_\_\_ F. 3d \_\_\_, \_\_\_, 2021 WL 2070612, at \*2 (5th Cir. May 24, 2021) (quoting *Hernandez v. Mesa*, \_\_\_ U.S. \_\_\_, 140 S.Ct. 735, 742, 206 L.Ed. 2d 29 (2020) (internal quotations omitted.)). The Supreme Court has permitted only one “*Bivens* claim for prisoner mistreatment - specially for failure to provide medical care.” *Ziglar v. Abbasi*, \_\_\_ U.S. \_\_\_, 137 S. Ct. 1843, 1855 (2017). In this case, the Supreme Court has not extended *Bivens* to UNICOR prison job assignments, and plaintiff also had an available remedy in the prison grievance procedure. Therefore, *Bivens* should not be extended to plaintiff’s claims. Accordingly, plaintiff has no cause of action.

#### ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. It is

**ORDERED** that the defendant’s motion to dismiss is **GRANTED**. A final judgment will be entered in this case in accordance with the magistrate judge’s recommendations.

**SIGNED** this the 24 day of **June, 2021**.

  
Thad Heartfield  
United States District Judge